

THE STATE OF NEW YORK - COUNTY OF ULSTER

TOWN OF ULSTER

IN THE MATTER OF

MILLENS RECYCLING PROJECT

APPEARANCES:

TOWN OF ULSTER TOWN BOARD:

JAMES E. QUIGLEY, III, Supervisor
John Morrow
Cris Hendrick
Joel B. Brink
Eric Kitchen

Also Present:

Jason Cosenza, Town Clerk

George Heitzman,
Department of Environmental Conservation
Division of Environmental Remediation

Benjamin Conlon,
Department of Environmental Conservation
Bureau Chief,
Office of General Counsel

Transcript of Proceedings of a Public Hearing held in connection with the above matter, on March 22nd, 2012, at 7:00, p.m., at the Town of Ulster Town Hall, 1 Garraghan Drive, Lake Katrine, New York.

BARBARA VAN BLARCUM
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1 Supervisor Quigley: At this point I would
2 invite our visitors from Albany, Mr. Conlon and
3 Mr. Heitzman. We can set you up with a microphone
4 or two, and a hopefully a second chair.

5 Good evening, and if you could for the
6 record, state your name and positions with the DEC.

7 MR. CONLON: My name is Benjamin Conlon.
8 I'm a bureau chief of the office of general counsel
9 in the Albany office. I am in charge of the
10 programs, State Super Fund and Spill Response
11 programs for New York State DEC.

12 MR. HEITZMAN: I'm George Heitzman. I'm a
13 section chief in Albany for a section that deals
14 with remediation sites, primarily in the Hudson
15 Valley.

16 SUPERVISOR QUIGLEY: As you will learn,
17 the Town of Ulster has received an application by
18 the owners of the Millens business to relocate
19 their facility to a parcel of property in an
20 industrial section in the Town of Ulster, an
21 adaptive reuse of an industrial building.
22 Considerable concern has been expressed by
23 residents in the community about the environmental
24 impacts this relocation may pose in the future
25 given the past operating history of the Millens

1 organization. If you could explain to the town
2 board a little bit about the history, the actions
3 taken by the DEC, the responses by the Millens
4 organization, and where you stand today in that
5 process.

6 MR. HEITZMAN: Speaking technically, the
7 contamination at the existing Millens site, the
8 contamination at the Millens site is due to
9 historic work operations dating back to the '50's
10 and '60's, and primarily the improper handling of
11 fluids drained from primarily automobiles, but also
12 transformers and capacitors. So contaminants were
13 spilled to the ground, largely petroleum, but also
14 PCPs from the transformers, but also lead from
15 batteries, and mercury from the switches that were
16 in the vehicles themselves. Fundamentally it's
17 because the existing facility is not properly
18 designed or properly operated.

19 SUPERVISOR QUIGLEY: The conduct of the
20 business in the '50's and '60's, could you explain
21 a little bit about the regulatory environment when
22 these violations occurred?

23 MR. HEITZMAN: There was essentially no
24 environmental requirements in the '50's and '60's.

25 MR. CONLON: While there may be subsequent

1 violations, when we talk about the '50's and '60's
2 time period and the State Super Fund program, or
3 the Federal Super Fund program, we tend not to talk
4 about violations occurring. We tend to talk about
5 historic violations caused by historic operations.
6 A lot of those operations were in full compliance
7 at the time, but resulted in environmental impacts,
8 which we later have learned needed to be remediated.
9 That's the entire purpose of the program is to deal
10 with these sites, not to necessarily say somebody
11 violated the law, but to necessarily say these
12 sites have to be cleaned up. Most Super Fund sites
13 historically there wasn't anything done that was
14 wrong when the contamination was left there. A lot
15 of old landfills ended up being Super Fund sites.
16 Everybody thought everything was being done right.
17 We later learned they weren't doing it well and we
18 were impacting our waters in ways it wasn't
19 acceptable, and we had to go back out and clean
20 them. That is the entire idea behind what we call
21 the inactive site program.

22 SUPERVISOR QUIGLEY: Given the changing
23 regulatory environment and the implementation of
24 regulations, has the Millens organization been
25 subjected to, to your knowledge, any violations in

1 the current regulatory environment from their
2 day-to-day operations?

3 MR. CONLON: There have been violations at
4 the facility from their day-to-day operations,
5 which have caused releases. There have been no
6 documented violations at their facility from their
7 day-to-day operations for the last two years, I
8 believe, in relation to it. There has been a
9 relatively good operation going on in the last
10 several years, and has been a change in attitude in
11 relation to their operation during that time.
12 Prior to that there were violations. Any release
13 of petroleum to the ground is a violation once the
14 navigation law was put into place in the '70's.
15 When you are crushing a car and doing it on the
16 dirt, it's not surprising that you are having
17 contamination go into the ground. Unfortunately
18 it's the way the design of the system is made. If
19 you design a system where everything is inside and
20 there is proper drainage, and everything goes into
21 a drainage system, then your risk of having those
22 type of problems is materially eliminated, namely
23 again because you are operating inside and
24 maintaining those systems.

25 SUPERVISOR QUIGLEY: As you've seen

1 through your experiences these operations evolve,
2 have you seen any facilities designed to today's
3 standards encounter or create the conditions that
4 would lead to the issues we are now dealing with at
5 Millens in the City of Kingston?

6 MR. HEITZMAN: I can't really speak to
7 that. My expertise is in remediating contaminated
8 sites, not in regulating ongoing operations.

9 SUPERVISOR QUIGLEY: Fine, but there are
10 no sites that have come to mediation that have been
11 constructed to modern standards?

12 MR. HEITZMAN: That is correct, yes.

13 SUPERVISOR QUIGLEY: Anyone on the board
14 have a specific question?

15 MR. BRINK: Yes, I have a question.

16 You mentioned earlier in the last two
17 years you have found Millens not to be in any
18 violation of the rules. Now what did you use to
19 determine that, since they were in such violation
20 prior to that time, how did you segregate what was
21 done prior and what was done in the last two years
22 to make you believe they are in compliance with all
23 your regulations?

24 MR. CONLON: First I was talking about
25 their operation of their facility. I don't think I

1 boiler plate said there were no violations at the
2 facility. The fact there is petroleum
3 contamination in the ground that has been released
4 relatively recently in the last ten, 15 years, and
5 still exists there is an ongoing violation. These
6 don't stop until it's cleaned up. What we have
7 done is looked at their operational history in
8 relation to their requirements of submitting forms
9 to us and documentation, their relation to their
10 reporting and other things to us as to car crushing
11 activities, collection of waste oil, looked at the
12 amount of waste oil they have collected based on
13 numbers of cars and is it consistent in relation to
14 what is expected to be collected in relation to
15 those cars. We don't see evidence of further
16 contamination expanding at the site at this point
17 in time.

18 MR. HEITZMAN: That having been said,
19 there have been violations of the clean up order
20 within the past two years, and primarily results
21 from his attempt to both clean up the site and
22 operate his facility at the same time.

23 SUPERVISOR QUIGLEY: John.

24 MR. MORROW: In your expert opinion, would
25 this new site be environmentally friendly and safe

1 to the greater Ulster County community than the
2 present site?

3 MR. CONLON: I think without question a
4 properly designed site is much safer for the
5 environment as a whole. Of course it has to be
6 operated as a properly designed site. We don't
7 have operations existing outside. But if you are
8 operating a site, and we try to get people to move
9 inside and to do these operations inside across the
10 state. This is our preferred alternative for these
11 types of sites, that they be contained.

12 MR. MORROW: So far as the clean up of the
13 old site, is that going to be a major ordeal? Is
14 that a Super Fund type clean up?

15 MR. HEITZMAN: It is a Super Fund clean
16 up, yes. One of the problems is we don't know how
17 contaminated it is. We have some historic data.
18 Mr. Millens has tried to remediate the site without
19 department approval, and without department
20 verification. These are the violations I talked
21 about earlier. So we don't know what is left.
22 That's why the state will be pursuing an
23 investigation one way or the other, whether he
24 moves or not at the existing facility.

25 MR. MORROW: So the existing facility you

1 have obvious problems of being right there on the
2 waterway, which creates its own problems, and his
3 new sight, we are going to put everything inside
4 and contain it, and the discharge of any fluids and
5 so forth are going to be very well contained and
6 put in containment, separated, and so forth, and
7 trucked off to appropriate places?

8 MR. CONLON: That's correct. Again
9 assuming it is operated in accordance. You can
10 design whatever you want, but you have also have to
11 operate it in accordance with its design.

12 MR. MORROW: Who would do that? Would
13 that be partially DEC, partially town? How would
14 that be accomplished to make sure they are in
15 compliance?

16 MR. HEITZMAN: The primary is actually
17 with the Department of Motor Vehicles. The
18 department assists in inspections for environmental
19 concerns with the Department of Motor Vehicles.
20 The reporting is also done to the DEC in terms of
21 the amount of fluids collected and the number of
22 cars crushed per year, and so on and so forth.

23 MR. MORROW: Thank you.

24 MR. KITCHEN: So it appears to me what you
25 are saying is the DEC will not have a whole lot of

1 oversight or schedule inspections per se. It's up
2 to Millens to send in proper paper work to you
3 folks for your review, and only at that time say
4 you don't get your paper work, you would come down
5 to inspect. Would there be any quarterly
6 inspection or yearly inspection?

7 MR. HEITZMAN: I'm sorry if I misspoke.
8 The department will assist the Department of Motor
9 Vehicles in inspecting the vehicle dismantling
10 facility that Millens operates.

11 MR. KITCHEN: Is that an annual one?

12 MR. HEITZMAN: It's not run out of my
13 section, so I don't know the frequency. It's at
14 least annual.

15 MR. KITCHEN: As far as the old site goes
16 down there, you said you don't know exactly to what
17 extent contamination has spread, or how deep in the
18 ground. I'm sure you have taken samples and
19 different things. What is the plan for the clean
20 up down at that site, and has any of the
21 contamination possibly leached into the Hudson
22 River and contaminated the wildlife, fish, the
23 birds, turtles, et cetera?

24 MR. HEITZMAN: There are a couple elements
25 to your question. We had a very good snapshot of

1 the contamination in 2004. We knew how deep and
2 how extensive it was at that time. The issue is
3 when he did the unauthorized work and threw dirt
4 around, we don't know how that changed. The first
5 step the department has to do is go back and
6 reinvestigate the site and see if the depth has
7 changed and the extent has changed.

8 MR. KITCHEN: You said he was moving
9 around dirt. Was he trucking dirt out of there,
10 and do you know where he took it? Because there is
11 a special site in Pennsylvania where that dirt is
12 supposed to go to and get burned in an incinerator.
13 In my own personal business I have dealt with those
14 situations before. Was that contaminated dirt
15 moved to a proper facility or just moved somewhere
16 else we don't know about.

17 MR. HEITZMAN: I don't know off the top of
18 my head where that went. There was some
19 documentation submitted for the unauthorized
20 excavation that he did, but I don't know if the
21 disposal facility was identified in that
22 documentation. I would have to research it and get
23 back to you.

24 MR. KITCHEN: Did he know he was in the
25 wrong by going ahead and taking this into his own

1 hands? Did he know that was a no-no?

2 MR. CONLON: I'm not sure I can say what
3 Mr. Millens knew or didn't know. We have clearly
4 identified to them that there were violations in
5 relation to it and they will be addressed. Our
6 biggest issue at this point in time is that
7 previously it was attempted to address the site,
8 pardon the phrase, piece meal, one part at a time.
9 That creates all kinds of difficulty in relation to
10 a scenario. We are at a point right now we are not
11 willing to do that. We want the site cleared off
12 so we can do one investigation, make a
13 determination of what else needs to be done and do
14 a remediation. The area has a very long history of
15 industrial operations in relation to it, and we
16 want to make sure -- not only industrial
17 operations, but has a very long history of a lot of
18 people proposing a lot of different ideas for use
19 of that area. We want to make sure we know what it
20 is and it is properly addressed so the future use
21 of that area can be adequately and safely done for
22 people. And the only way we can do it comfortably
23 and make sure so we know what we are getting into
24 and addressing is to be able to do it holistically.
25 That's our concern right now.

1 MR. KITCHEN: My question is: How long
2 have you been dealing with this situation back and
3 forth, don't move the dirt. You got a plan in the
4 works here for awhile. Were you eventually going
5 to shut them down and tell them to get all the
6 stuff out of there and go ahead and clean it up?

7 MR. CONLON: Whether or not there is AN
8 approval given for this operation, there will be a
9 point in the near future, very near future where
10 the department will direct Mr. Millens that his
11 materials on site and the piles of materials have
12 to be moved out of our way to allow us to complete
13 a complete investigation. We are running short of
14 patience without question in relation to that term.
15 There was substantial work done by Mr. Millens at
16 the site, and there was contaminated material taken
17 off site, and we do have reports in relation to
18 that work. We're not happy because the work was
19 done without our approval and without our notice,
20 and that will be addressed.

21 MR. HEITZMAN: Actually I'd like to answer
22 the second half of your question about contaminants
23 leaving off site. We do have contaminants in
24 ground water that has left the site. They are
25 primarily petroleum contaminants that don't

1 bioaccumulate in the iota of the Hudson River,
2 which I know was your concern. We do not have
3 evidence of PCPs leaving the site.

4 MR. KITCHEN: By the way of your patience
5 is running thin, have there been fines imposed?

6 MR. CONLON: There have been fines imposed
7 on Mr. Millens for violations, yes.

8 MR. KITCHEN: You gentlemen obviously have
9 been doing this for a long time and are very
10 familiar with how the clean up process goes. How
11 do you see the clean up process going? Do you see
12 you guys digging down 30 feet removing soil and
13 bringing fill in and encapsulating this former
14 scrap yard?

15 MR. HEITZMAN: first of all, it doesn't go
16 down 30 feet. The maximum we see is like six to
17 eight feet, and only in very isolated areas. It
18 could involve removing additional soil and
19 particularly drawing the water table down. One of
20 our concerns is that when he did his soil dig he
21 left the ground water in place, and our concern is
22 the clean back fill he brought in was
23 recontaminated at the same time. So that's
24 something we need to reinvestigate. Potentially
25 The remedy is a mix of soil excavation and some

1 kind of soil cover.

2 MR. KITCHEN: I have one last question,
3 not to take anybody else's time so you have the
4 opportunity to ask questions you want to ask.

5 As you have traveled around the state you
6 have seen these enclosed facilities before, these
7 new facilities I guess in the last 10, 20 years,
8 the new indoor facilities, state of the art
9 facilities?

10 MR. CONLON: Yes.

11 MR. KITCHEN: Have you by any chance had
12 any problems with these enclosed facilities, there
13 being any contaminants in these enclosed facilities
14 we are talking about constructing here?

15 MR. CONLON: Generally the answer would be
16 no. If somebody again is operating in the facility
17 and operating properly. Some of the facilities are
18 covered and not enclosed, and that can cause other
19 issues in relation to it. Most of the issues
20 become are they operating in compliance with their
21 criteria. It's great if you are collecting your
22 waste oil. It's better if you are collecting your
23 waste oil and you properly dispose of it. If you
24 are collecting your waste oil and not properly
25 disposing of it, it's going someplace else. There

1 is a cost to operate properly. We are trying to
2 get to that point where the cost is cheaper than
3 not operating properly.

4 MR. KITCHEN: Thank you for your time.

5 MR. BRINK: For the stenographer, my name
6 is Joel Brink. I didn't give it to you before.

7 The question I have now is you talked
8 about the contamination in the soil. One of the
9 things the people are concerned about is noise
10 contamination. By that I mean how much noise is
11 going to be from this operation. They are going to
12 operate from 7:00 in the morning to 5:00 in the
13 afternoon, and not on Saturday and Sunday, but
14 there is other facilities over there that do create
15 some noise, and the people in the housing areas
16 close by do hear it. Is this going to be a problem
17 with this operation the way they designed it, and
18 the way it's supposed to operate, and if there is
19 noise contamination, do you people get in on that
20 end of the business?

21 MR. HEITZMAN: I'm not an expert in noise.
22 When we do clean ups we rely on town ordinances to
23 regulate noise.

24 MR. CONLON: Again, that is generally a
25 town issue, unless we are getting into an issue

1 that is really getting very excessive in relation
2 to noise levels. A crusher inside a building is
3 generally muffled. I've been outside buildings
4 where crushers have operated within. Part of it is
5 are you insulating the building or not insulating
6 the building. If that's your concern, make sure
7 you set your decibel limits for your town
8 requirements.

9 MS. HENDRICK: Thank you for coming and
10 answering our questions. You began speaking about,
11 you talked about how they have been good for two
12 years. Basically since this process of trying to
13 find a new location, there has been a good turn
14 around at the older site, the current site they
15 have now in Kingston. Time-wise it's kind of
16 similar in timing.

17 MR. CONLON: Time-wise it may well be. We
18 are hopeful that at some point in time, as I said,
19 it gets cheaper to operate in compliance than it is
20 to operate out of compliance.

21 MS. HENDRICK: You also said it wasn't
22 properly operated in the current years, not meaning
23 the last two years, but in the current years, not
24 what just happened in the '50's and '60's, but
25 things in our current years that it wasn't operated

1 properly and that they had violations for not doing
2 proper remediation and not calling when they needed
3 to currently. I wanted to make sure I understood
4 that correctly.

5 They have those collection units, special
6 units that they need to process the fluids and
7 things like that. Is that something you are going
8 to be checking? Is that part of the annual
9 inspection? Is that your responsibility to check
10 them? I don't know if our town building inspector
11 would have the training to check those things.

12 MR. HEITZMAN: IT IS the department's
13 responsibility out of our New Paltz office in
14 coordination with the Department of Motor Vehicles,
15 to inspect that operation, yes.

16 MS. HENDRICK: How many times does the
17 Department of Motor Vehicles do it, one a year,
18 twice a year? How does that work?

19 MR. HEITZMAN: Once again, I'm afraid I
20 don't know the frequency other than it is at least
21 annually.

22 MS. HENDRICK: We had gotten information
23 from Praetorius and Conrad from work that they did,
24 and they had made a recommendation that it become a
25 storm water pollution prevention plan, that that

1 would be done. Is that something that works with
2 you, that is happening with this project? Has that
3 happened?

4 MR. CONLON: Are you talking about the new
5 facility?

6 MS. HENRICK: For the new facility. There
7 is so much water that goes in that particular area,
8 especially. Is that something that would happen
9 through you guys.

10 MR. HEITZMAN: It would not be through my
11 unit. It would be through the New Paltz Water
12 Program, Division of Water in New Paltz.

13 MS. HENDRICK: Do you know if that's in
14 the works?

15 MR. CONLON: Any construction activity
16 over a certain number of acres has to be under a
17 general permit or otherwise for the construction
18 activities, and then if they are collecting and
19 dealing with storm water, they are going to have to
20 address it.

21 MS. HENDRICK: So that's something that
22 has to happen before it becomes built, before this
23 happens, having been set up that plan, or is that
24 something once they see it's a problem they do it
25 after.

1 MR. HEITZMAN: It's a plan developed prior
2 to construction.

3 MS. HENDRICK: Is there training that's
4 offered through the DEC for our building inspector,
5 because like you said, we you don't know if the DMV
6 comes more than once a year, so that they can be
7 aware of some of the things they need to be
8 watchful of on a regular basis?

9 MR. HEITZMAN: I'm not aware of any. We
10 do have AN inspection form that our inspectors use
11 that I think would be useful to a town inspector.

12 MS. HENDRICK: No regular training?

13 MR. CONLON; not that we're aware of.

14 MS. HENDRICK: My one last question, you
15 were talking about an enclosed area as opposed to
16 an open area. This is an enclosed area, but the
17 doors will be open. So if they are overrun with
18 cars and there is something that comes out the
19 doors, that's not something that is part of what
20 the plan is? The plan is to keep it all inside the
21 doors, correct?

22 MS. CONLON: Generally what you are
23 dealing with, you have loading areas and everything
24 is tilted in, and basically all of your operations
25 are contained within a system. Vehicles come in

1 and are off loaded into the system. If it's
2 properly designed you are not putting the vehicles
3 leaking oil or other things on the grass, and then
4 pulling them into the system. So when I talk about
5 properly designed, I'm talking about a facility
6 that is designed to operate based on the capacity
7 they are going to be operating under. You are
8 talking about a facility in this area that can pull
9 in a very substantial number of cars a week, and
10 because of that you want to make sure you've got
11 capacity. It doesn't take very long to process a
12 car through these facilities. They move very
13 quickly.

14 MS. HENDRICK: Thank you.

15 SUPERVISOR QUIGLEY: You talked about the
16 fact that the Millens family has been on the site a
17 very long time, and made reference to other
18 industrial uses along the Rondout. Are you
19 knowledgeable of any other areas that have been
20 environmental challenges such as the Millens site
21 along the Rondout?

22 MR. HEITZMAN: There's the former
23 manufactured gas plant site. That is, I think he's
24 immediately adjacent to Millens.

25 SUPERVISOR QUIGLEY: He's right between

1 Millens and the creek, right?

2 MR. HEITZMAN: Yes. And there is a known
3 discharge to the creek from that site, yes.

4 SUPERVISOR QUIGLEY: Are you involved in
5 the clean up of the manufactured gas facility in
6 Newburgh.

7 MR. HEITZMAN: No.

8 SUPERVISOR QUIGLEY: It's not your region?

9 MR. HEITZMAN: Me personally, no, and it's
10 not my staff either. That's another section.

11 SUPERVISOR QUIGLEY: But those are quite
12 complicated, aren't they?

13 MR. HEITZMAN: Yes.

14 SUPERVISOR QUIGLEY: And that has not been
15 done on this site, the Central Hudson site next to
16 Millens.

17 MR. HEITZMAN: No. We are just completing
18 the investigation of that site. We now there are
19 immediate impacts to the Rondout Creek. We are
20 trying to determine the extent to which they have
21 gone downstream. Remedial plans for that site will
22 be developed I would say in the next year.

23 SUPERVISOR QUIGLEY: Could there be any
24 impacts on the Millens site from that site from
25 tidal flows?

1 MR. HEITZMAN: No.

2 SUPERVISOR QUIGLEY: Are there any other
3 locations operating under consent decrees along the
4 Rondout.

5 MR. HEITZMAN: We have the KOSCO site.
6 Are they under consent decrees?

7 MR. CONLON: I'm not sure if they are or
8 aren't. The old MOFs there, the old KOSCO MOFs
9 site, I'm not sure if they are presently under an
10 order or not. That's been recently transferred to
11 I believe now Lukoil. That site has some issues.
12 There is a historic MOFs down there, I believe.

13 MR. HEITZMAN: Some of those sites are
14 owned by Mr. Iannucci, who is not under an order
15 with us, but he's under a voluntary agreement with
16 us in the program, and there are minor
17 contamination issues on some of those sites but not
18 as severe as Millens or Central Hudson.

19 SUPERVISOR QUIGLEY: And the Kingston
20 Recycling site on Wilbur Avenue, are they under a
21 consent decree? Abeel Street, excuse me.

22 MR. HEITZMAN: I don't know.

23 SUPERVISOR QUIGLEY: But it's fair to say
24 given the industrial nature that has historically
25 gone on along the Rondout, we have numerous

1 environmental issues that we have come to discover
2 as we became more knowledgeable now present
3 challenges in the future to us.

4 MR. CONLON: Not any different than lots
5 of other places across the state, yes.

6 SUPERVISOR QUIGLEY: Any other questions
7 from the board?

8 MR. KITCHEN: There was all industry along
9 the Rondout for years and years and years. DEC
10 came in the what, the '70's, with all these rules
11 and regulations. Like that whole stretch, that was
12 all industry a hundred years.

13 MR. CONLON: As we investigate more we
14 learn more things and go forward.

15 MS. HENDRICK: I have a question. Do you
16 believe that the discharge, the potential for the
17 discharges of the storm water for the new facility
18 will affect the water quality in that area?
19 Looking at where the facility is going to be,
20 knowing how the run off is, what is your opinion on
21 that?

22 MR. KITCHEN: I was under the impression
23 you were speaking about the old facility and you
24 don't have much knowledge of the new facility. the
25 purpose of coming here tonight was to talk about

1 the current situation down on the Rondout.

2 MR. HEITZMAN: Correct. I haven't
3 reviewed those plans, and I can't form an opinion.

4 MR. CONLON: We haven't reviewed the
5 plans, but any discharge of water from a industrial
6 facility has to be addressed in relation to a SPDES
7 discharge if it's from industrial operations.
8 Because of that it will be controlled as a
9 permitted discharge, and have controls put in place
10 by the department in a SPDES permit if it's
11 industrial water. If it is just storm water around
12 the facility, it's a Storm Water Management Plan
13 generally, and not an industrial SPDES permit,
14 because the industrial operations aren't supposed
15 to touch it.

16 MS. HENDRICK: Thank you.

17 SUPERVISOR QUIGLEY: Thank you, gentlemen.
18 I invite you to stay for our public hearing. If
19 time permits upon completion of the public
20 questions, I hope you will stay and if some of the
21 members of the public have questions, you will be
22 able to answer them.

23 At this point in time it's past 7:30. I
24 would like a motion to call the public hearing for
25 the continuation of the special use permit under

1 the Town of Ulster Zoning Code for the Millens
2 Recycling project.

3 MS. HENDRICK: I make a motion. All those
4 in favor.

5 (MOTION PASSED BY BOARD MEMBERS.)

6 SUPERVISOR QUIGLEY: At this point I would
7 call members of the public to give you an
8 opportunity to come to the podium. Please state
9 your name and address for the record, and please
10 attempt to keep your comments to five minutes or
11 less.

12 SUPERVISOR QUIGLEY: Mr. Barton, as usual
13 you are first tonight.

14 MR. BARTON: Robert Barton, 270 Risely
15 Street, Town of Ulster. I have great concerns over
16 the Millens Recycling of cars and other debris at
17 the site. The town already has had one recycling
18 plant in Eddyville, that I don't know whether the
19 problem has been resolved and corrected completely
20 or not to this date. I know that the town has also
21 had and been fined when they took a used car lot up
22 in Ruby and sent the cars down to Newburgh to a
23 place that did recycling of cars. The town ended
24 up paying a fine for that. Do we want anyplace to
25 come back into the town to create these further

1 problems and cause more problems for the towns'
2 taxpayer? I also have some great concerns about
3 the pollution of the ground water and having a
4 cement floor in a place and having windows open
5 during any times of operations, because that sound
6 goes out along with any odors, and most likely
7 odors would be toxic type odors that would pollute
8 the air, plus the sound variations would pollute
9 the air, which we already had with the Kingston
10 Block when they opened their windows. We already
11 know there is a problem in the area, and now we
12 want to increase the problems by adding someone
13 else who will do the same problems. I don't think
14 so.

15 I have some questions for the DEC, because
16 they said the Millens property in the City of
17 Kingston in the last two years, they seem to be, if
18 I recall completely, in compliance. I wondering if
19 they actually, and when is the last time they did
20 an inspection and what the inspection entailed.

21 I'm not for this thing, because I don't
22 want to have the taxpayers pay for doing anything
23 being able to verify and check, because we have a
24 building inspector who doesn't have a degree, an
25 educational degree to do that. We have to hire

1 someone special to do that, and it should be done
2 more than on an annual basis.

3 I have another question for the DEC,
4 whether they have to license and get any type of
5 DEC license before Millens can go into any site in
6 the Town of Ulster.

7 SUPERVISOR QUIGLEY: Mr. Barton, could you
8 restate your last question, because I'm not clear
9 what you were asking.

10 MR. BARTON: For the DEC, because they
11 aren't going to be inspecting all the time, whether
12 the inspections would have to be done by the town.
13 If it's done by the town personnel, the town would
14 have to hire, whether a full time personnel or a
15 company to contract with and verify the conditions
16 at the Millens property if they were to locate to
17 anyplace within the town.

18 SUPERVISOR QUIGLEY: I have that one. But
19 are you suggesting the DEC review the Millens plans
20 prior to the town making a decision? Are you
21 suggesting that?

22 MR. BARTON: That would be a good thing
23 for them to do, because -- I didn't say that.

24 SUPERVISOR QUIGLEY: I got you. Thank
25 you.

1 MS. HENDRICK: You said something about a
2 license.

3 SUPERVISOR QUIGLEY: I have that part. I
4 thought he was going further, because that is not
5 the DEC's role. That's the town planning board,
6 consultants to the town, and the town board.

7 MR. BARTON: Because of the DEC's
8 experience in this, because they can find, and when
9 they do find the pollutants, they would have a
10 better working knowledge of this type of site they
11 have looked at before, and other types of
12 pollutions, so to me ideally they would be a good
13 group to do, and it seems, why not look at things
14 before they go wrong and address them ahead of
15 time. If you wait until after something happens,
16 that costs more money, and the environment is
17 downgraded. If you look at problems ahead of time
18 to stop any pollution, that's a good thing. Thank
19 you.

20 SUPERVISOR QUIGLEY: Thank you,
21 Mr. Barton.

22 SUPERVISOR QUIGLEY: Mr. Wiedemann, how
23 are you tonight.

24 MR. WIEDEMANN: Augie Wiedemann, 921
25 Flatbush Road, Kingston, New York. I just want to

1 read a couple excerpts from correspondence over the
2 years from various officials to various officials,
3 which sort of describes the impact of Millens, and
4 give you a hint as far as his trustworthiness goes.
5 Also I would like to say to Mr. Brouck (phonetic)
6 and Mr. Kirscher, this is not the time level of the
7 wild, wild west of the '50's, '40's and '60's.

8 MR. KITCHEN: I didn't understand that
9 comment.

10 MR. WIEDEMANN: Okay, you had to be here
11 before.

12 These are just excerpts. Dear Mr. Millens
13 from David Traver, who is a member of the DEC. And
14 again, these are excerpts. If you want the dates,
15 February 25th, 2005. This department is also
16 requiring a work proposal to be submitted to this
17 department by March 8, 2005, to further investigate
18 and remediate the source of petroleum vapors which
19 caused an impact to the Children's Home of
20 Kingston, and continues to cause vapor impacts to
21 the City of Kingston sewer system. This work
22 proposal must include removal of petroleum impacted
23 soils identified from samples collected on the
24 Millens site, blah, blah, blah.

25 SUPERVISOR QUIGLEY: Mr. Wiedemann, while

1 you read that statement into the record, do you
2 know what the conclusion of any of the studies were
3 in relation to the issue you just raised?

4 MR. WIEDEMANN: Yes. It was determined
5 they originated from the Millens site.

6 SUPERVISOR QUIGLEY: And that was proven
7 by the DEC?

8 MR. WIEDEMANN: Yes. I have the letter.

9 SUPERVISOR QUIGLEY: Can we see the
10 letter?

11 SUPERVISOR QUIGLEY: Sure, you can have
12 it.

13 MR. WIEDEMANN: Another one is from --

14 SUPERVISOR QUIGLEY: Excuse me, before we
15 move on. The first sentence in this document says
16 as a result of an investigation by the DEC, you are
17 considered a potential responsible party for a
18 petroleum spill. It doesn't say in this letter
19 anywhere that you are the responsible party for
20 discharging the fuel.

21 MR. WIEDEMANN: Okay, how many other
22 places around The Children's Home does that stuff?

23 SUPERVISOR QUIGLEY: You have more for us?

24 MR. WIEDEMANN: I'll skip the next one to
25 make it short so you all will be happy.

1 The next one is again from Mr. Traver, and
2 this is the alleged incident you are talking about.
3 Under section 181 Article 12 of the Navigation Law,
4 a person discharging petroleum is strictly liable
5 for all clean up and removal costs, all direct and
6 indirect damages, no matter by whom sustained.
7 Failure to comply with the department has caused
8 the DEC to hire a contractor to complete the work.
9 The DEC will take legal action to seek
10 reimbursement of funds expended as well as interest
11 and penalties under Article 12 of the Navigation
12 Law and Article 1771 of the New York State
13 Conservation Law. That is Mr. Traver to Mr. Barney
14 Millens, May 10th, 2005.

15 SUPERVISOR QUIGLEY: And was there a court
16 proceeding that followed that?

17 MR. WIEDEMANN: I assumed there was. You
18 can have all these letters and investigate it
19 yourself. These are all from the DEC.

20 SUPERVISOR QUIGLEY: Please, I would like
21 them put into the record.

22 MR. WIEDEMANN: This is another letter,
23 you can call this opinion if you want, from Maurice
24 Hinchey to Commissssioner Allison Crocker, deputy
25 commisssioner and general counsel, New York State

1 Department of Environmental Conservation, again an
2 excerpt. Over the course of the last several years
3 there has been considerable investment from both
4 private sources and Federal appropriations to
5 enhance the corridor from the downtown Rondout area
6 to the Hudson River. Federal funding has already
7 been designated to extend the existing walkway
8 along the Rondout, and private development
9 initiatives seek to focus their attention on
10 bringing in seafaring vessels and developing
11 balance housing along this route. At the utmost
12 importance in achieving the upgrading of the
13 waterfront district is that this portion of the
14 Rondout is completely cleansed. I would like to
15 see the scrap yard clean up move forward, and of
16 course it's Millens, not some other scrap yard,
17 with some guarantee it be done effectively and as
18 soon as possible. I believe this goal could be
19 achieved more quickly and effectively if the order
20 on consent could be adjusted in ways to bring about
21 the comfortable compliance of the scrap yard.

22 Another letter to Mr. Robert Schick of the
23 DEC from Mayor James Sottile of Kingston. As we
24 strive to implement the City of Kingston Waterfront
25 Development Plan and as an adjoining property owner

1 to the Millens site, we are obviously quite
2 concerned with the progress of the Millens
3 remediation. We have become aware of a notice of
4 violation from the DEC to the property owner
5 regarding discharge of an untreated ground water by
6 hose to a separate location on the Millens site.
7 This was an incident where a DEC employee came down
8 to see what was going on, found a house stuck in a
9 water test pit, which was evacuating water from the
10 test pit to another area on the site. We would
11 like assurances that city property is not being
12 negatively affected by the mediation plan and that
13 city property is not being utilized for any part of
14 the remediation process. That's enough for that
15 one.

16 Then the final one, Mr. Robert Iannucci,
17 who was mentioned before. For those who don't know
18 anything about him, he's a fairly wealthy attorney
19 from New York City. He's a developer who has been
20 buying up land on the Rondout section for further
21 development. Mr. Iannucci had sent a letter to a
22 company called Fuss and O'Neill of New York City,
23 because he was concerned about the remediation at
24 Millens. Just two little sentences, two little
25 things.

1 Dear Mr. Iannucci, in response to your
2 concerns that the adjacent industrial property was
3 impacting the environmental quality of parcels at
4 107 Green Street in the City of Kingston, New York,
5 New York Fuss and O'Neill P.C. conducted a soil
6 assessment of soil quality on the subject site.
7 Then there is all sorts of graphs and stuff like
8 that that gives you an analysis of what they found,
9 which I'm not going to certainly read. Anyway, he
10 concludes the presence of these levels of
11 contaminants significantly restricts your ability
12 to develop this parcel of land. You have to be
13 concerned if the property was used for residential
14 reuse, or frankly any other use and potentially
15 expose children to these contaminants there could
16 be serious health risks. Children exposed to the
17 levels of heavy metals observed on this parcel can
18 suffer neurological disorders, learning
19 disabilities, developmental disorders, skin
20 problems and other health effects. Exposure to the
21 petroleum compounds can affect the heart, blood and
22 lung systems and exasperate, asthma problems.
23 Needless to say this property could never be used
24 as a day care facility under its current condition.
25 You should also note remediating this property

1 might be fruitless, since the apparent source of
2 the problem is likely to be the adjoining Millens
3 operation.

4 Then one final excerpt from a letter.

5 SUPERVISOR QUIGLEY: Is this the last one?

6 MR. WIEDEMANN: This is the last one. You
7 will be relieved, okay. This is to Mr. Ramayan
8 Regalia (phonetic) of the DEC, and here is a quote
9 from the letter. It is the ultimate desire of B.
10 Millens and Sons to complete site remediation and
11 have New York State DEC involvement at this
12 property. We will provide any documents or
13 assistance necessary to facilitate completion of
14 remedial efforts on the site. Please review this
15 letter and contact Mr. Cinatello (phonetic) who was
16 involved in testing should you have any questions
17 or require additional information, sincerely,
18 Barney Millens.

19 SUPERVISOR QUIGLEY: Could you give those
20 to us so we can copy them and put them in the
21 record.

22 MR. WIEDEMANN: Yes.

23 SUPERVISOR QUIGLEY: Comments, additional
24 public comment? Mr. Garraghan.

25 MR. GARRAGHAN: My name is Abel Garraghan.

1 I live at 20 Burgevin Street, Kingston, New York.
2 My thought of coming to this meeting was the fact
3 that the community in the greater sense, not just
4 the Town of Ulster, but the whole area needs a
5 modern facility like this. I do business with
6 Barney Millens, I deliver boilers down to his place
7 for recycling purposes. They have been using that
8 site for closer to 80 years, as opposed to the
9 '50's. And they were the original recyclers in the
10 community. I can't imagine what our community
11 would look like without them, their daily recycling
12 material out of here.

13 To address the point that Millens has come
14 to you with the idea of relocating out here and
15 asking for a special use permit, this could be
16 waste management coming to you with the same type
17 of permit in my mind. The fact that somebody
18 locally here with a three generation family in the
19 business is willing to make the investment
20 commitment to do this, to modernize the facility,
21 to go forward in the community is a great
22 opportunity. I'm sure he's well aware of the fact
23 he will have some serious responsibility of
24 remediation of the present site he's on.

25 The only other thing I might be able to

1 share with you, I'm in the petroleum business as
2 you know, and we operate a storage facility, a
3 major storage facility in Kingston, and operating a
4 facility on Kingston Point. Over the last 30, 40
5 years there used to be six storage facilities in
6 the Kingston area, the Rondout. Right now there is
7 only one left working. From 17, 18 million gallons
8 collectively, we are down to three and a half
9 million gallons collectively. That has happened
10 because of the cost it takes to modernize these
11 facilities to address the environmental standards
12 the State of New York has set, and it's been an
13 evolving state of standards. The first
14 requirements go back to the late '70's I believe,
15 and the standards moved up as people learned how to
16 do things better, and today our sites all have
17 secondary containment that no water or petroleum
18 gets through to the ground, and you have SPDES
19 permits, you've heard that word, that have to deal
20 with the separation of water in the ground. We
21 actually have air permits at Kingston Point to deal
22 with anything that might be in the water, separate
23 that out.

24 The other thing in our industry that has
25 happened, our site is inspected by a third party

1 once a month, and all the reports are sent to DEC.
2 Obviously our own policy the site is looked over
3 everyday during the point of operation, and also an
4 annual report that our third party water sampler
5 comes down and submits to the DEC. And the other
6 thing that happens on a site like ours, every ten
7 years the tanks are taken out of service and
8 reinspected by an engineering company out of New
9 Jersey we use to meet the API 635 standards, and
10 not put back into service until the tank is
11 certified and the steel quality meets the standards
12 met by the API, which are set by the API and
13 accepted by the DEC as a standard. I know nothing
14 about the standards that would be required by a
15 scrap facility, but it makes sense to me there are
16 some standards that exist. This is a great
17 opportunity for the whole community. If the
18 Millens family doesn't step up and do it, it will
19 have to come from out of town, because the cost of
20 doing something like this is quite extensive. If
21 we don't get that type of facility here, the cost
22 of removing cars and things from the community
23 would go up quite dramatically I would think, and
24 then you would have to wonder would they be removed
25 or left to sit there, as we heard one description.

1 So I ask you to take that into consideration. I
2 wanted to share with you my knowledge of it. Thank
3 you very much for your time.

4 SUPERVISOR QUIGLEY: I have a question for
5 you. The monthly independent inspections, are they
6 mandated by DEC or are they voluntary?

7 MR. GARRAGHAN: They are mandated by DEC.

8 SUPERVISOR QUIGLEY: Therefore the
9 inspectors are licensed by the DEC?

10 MR. GARRAGHAN: No, they are not licensed.
11 I think they are independent laboratory firms, and
12 submit the results, a copy to us obviously, and
13 directly to the DEC.

14 SUPERVISOR QUIGLEY: And they are
15 monitoring your ground water?

16 MR. GARRAGHAN: Yes.

17 SUPERVISOR QUIGLEY: Thank you.

18 Mr. Barton, I would ask you hold your
19 question to the end to allow everybody else here
20 the opportunity. Anybody in the back?

21 SUPERVISOR QUIGLEY: Mr. Hill.

22 MR. HILL: First I would like to thank you
23 for the opportunity to speak tonight. I'm here to
24 speak in favor of this project. I live at 10 Fawn
25 Hill Court in the Town of Ulster. My name is Ed

1 Hill, Jr. I believe the Millens family have in
2 general been responsible business operators in this
3 community for many, many years. Have they made
4 mistakes, yes, they have made mistakes. And I
5 invite anybody in this audience who never made a
6 mistake in their life to step forward and criticize
7 them for that. I don't think anybody would be up
8 here. I believe much of the controversy
9 surrounding this project has to do with taking
10 today's standards and applying them to events that
11 occurred many, many decades in the past. The
12 standard for removing oil from a car engine 40 or
13 50 years ago was to take the plug out and drain it
14 on the ground. That's not in dispute. Now you
15 want to take today's modern advanced standards and
16 apply them to actions that occurred 50 years ago.
17 I think that is incredibly unfair. We as a society
18 have done the same thing repeatedly to many
19 companies for many things. I think that is
20 completely unfair. They had no idea at the time it
21 was dangerous. The DEC had no idea at the time it
22 was dangerous. The DEC didn't even exist. The
23 government didn't know at that time it was
24 dangerous. Now you want to go back and say gee,
25 they did that 50 years ago and that's dangerous.

1 I'm sorry, that is completely unfair. I think we
2 all agree that society will benefit from, one,
3 general development in the area to increase our tax
4 base and increase our employment. We need that.
5 Two, I think we can all agree that we need to
6 clean up the site on the Rondout. I don't think
7 Mr. Millens has disputed that at all. The fact is
8 to clean up the site they are on, it would make
9 sense to me it would be a lot easier to do it if
10 they weren't there. You could do a more complete
11 remediation without operating a business there. To
12 do that they need to move someplace. I believe
13 with modern technology and standards, the new site
14 will be far cleaner than the old site ever was, and
15 I believe as responsive people and members of our
16 community, I have only known them for 30 plus years
17 that I remember, but I'm only 45 years old, so
18 that's a pretty long period of time. They have
19 been responsible members of our community and will
20 continue to be. I believe everybody in the
21 audience would agree recycling, is something
22 positive for a society as a whole. Everyone wants
23 to recycle, but apparently a number of people don't
24 want it done anywhere. We all drove here in cars,
25 and those cars are all going to be done some day.

1 Where are they going to go? Do you think they are
2 going to magically disappear? No. We need
3 responsible recyclers to take care of that. That's
4 what Millens does, and I think we should encourage
5 it, not discourage it. Recycling is not a clean
6 business, but it's a necessary business. It needs
7 to be done somewhere. We might as well do it here.
8 Make him stick to the standards, which I don't
9 think he has any issue with, have the employment
10 here, have the tax base here. And I thank you for
11 your time.

12 SUPERVISOR QUIGLEY: Sir, over in the
13 back, I think you attempted to move.

14 MR. HOFFMAN: My name Nelson Hoffman. I
15 live across the street from all that noise and
16 stuff. We don't need anymore traffic. My God
17 almighty, does anybody from the DEC ever check the
18 exhaust that comes out from there. We live in a
19 valley, and all that nice and exhaust goes right in
20 our place. We don't need anymore traffic with one
21 entrance. Does anybody ever monitor the quality of
22 the air. The noise is a pollution, am I right,
23 DEC? It's very, very noisy, that traffic. Every
24 time they go up that hill exhaust comes out, diesel
25 exhaust. The place is blue with it. One entrance

1 only. The man was here, his name was Mr. Bock I
2 believe. He said there would be about 11 vehicles
3 going up and down an hour. Believe me there will
4 be more than that. 11 is too much anyway. You got
5 a school operation there, a school bus depot there,
6 a beer distributor company. They all have diesel
7 engines, plus other exhaust. If they ever put a
8 red light in there, it'll be murder. Why don't
9 they put more exits? You got one across from the
10 VFW that can be opened, and one on Flatbush Road
11 that can be opened. We don't need anymore traffic.
12 Thank you.

13 SUPERVISOR QUIGLEY: Thank you,
14 Mr. Hoffman.

15 Anyone in the back who has not previously
16 spoken or expressed an opinion wish to come forward
17 tonight?

18 MR. BENA: Ladies and gentlemen, good
19 evening. My name is Ed Bena, I live on Glenerie
20 Boulevard, resident of the Town of Ulster. I am of
21 the school that if you don't mess it up in the
22 first place, you don't have to come back and clean
23 it up later on. I'm all in favor of recycling.
24 I'd like to thank Mr. Wiedemann for all the paper
25 work he presented. It's an amazing job. He

1 mentioned several items. One is birth defects.
2 Secondly, childhood learning defects, water
3 pollution, air pollution. Why do we need to
4 inherit Kingston's problem in the Town of Ulster?
5 Is it of any economic benefit for the town?
6 Certainly it's not been environmentally beneficial
7 to us. Is this something that's already in
8 operation or something that is being considered?

9 SUPERVISOR QUIGLEY: What do you mean by
10 that statement, already in operation?

11 MR. BENO: Do they have the licenses,
12 permits, papers?

13 SUPERVISOR QUIGLEY: To do what?

14 MR. BENO: To operate what they want to
15 do, or is this something that is under
16 consideration?

17 SUPERVISOR QUIGLEY: They have all the
18 permits necessary to operate in the City of
19 Kingston, and they have applied to the Town of
20 Ulster Planning Board for a site plan review, which
21 we have not granted, and the planning board is also
22 reviewing the site plan and other professional
23 reports required under SEQR in order to make a
24 recommendation to the Town of Ulster Town Board
25 whether a special permit under the Town of Ulster

1 Zoning Code should be issued for the operation of
2 that type of facility.

3 MR. BENA: And this is hinging strictly on
4 this hearing?

5 SUPERVISOR QUIGLEY: No, it's not. It is
6 a process that is multi-faceted. It is part of the
7 planning board, it is part of the county planning
8 board, based on the engineer's recommendations. We
9 have hired a special engineer from Poughkeepsie,
10 who has experience in these matters. He has
11 designed and overseen two types of these
12 facilities. One a similar dismantling yard, and
13 another auto parts yard in the Town of Dover, as
14 the town engineer. We have many professionals here
15 to review all the facts that are being put forward
16 and make recommendations.

17 MR. BENA: It's only the Town of Ulster in
18 the entire county that can be considered for this
19 Millens operation?

20 SUPERVISOR QUIGLEY: This is the town
21 which the Millens family has identified a piece of
22 property that fits their needs.

23 MR. BENA: Thank you very much.

24 SUPERVISOR QUIGLEY: Mr. Millens, do you
25 have anything to say tonight?

1 MR. MILLENS: No.

2 SUPERVISOR QUIGLEY: Mr. Barton, seeing no
3 other hands go up, five minutes or less, please.

4 MR. BARTON: It's been said that if this
5 operation isn't done within the town it will cost
6 more money. As we know, this affects our health.
7 Our health cost have been going up astronomically.
8 So we got to consider all the extra costs for
9 health care that's involved.

10 Next thing, point, it says from years ago
11 things were polluted there, reasons that they were
12 polluted. There are two. That is mostly granted.
13 One is the lack of foresight and using common
14 sense. The other was it was cheaper just to avoid
15 common sense and just put it back into the ground.
16 These pollutants that were in the ground before are
17 being reintroduced, and we do not want that within
18 the town. Thank you.

19 SUPERVISOR QUIGLEY: Any other individuals
20 with public comment tonight on the issuance of the
21 site of the special use permit? Mr. Turco.

22 MR. TURCO: You called me Mr. Turco, thank
23 you. My name is Thomas Turco. I live on Cora
24 Terrace, which is pretty close to the site you are
25 talking about. I know there is pollutants going on

1 and stuff like that, but from what I heard from the
2 DEC, there actually wasn't any violation at the
3 time, because there was no laws for that; correct.
4 so would it be easier if I was going to bring a car
5 down to Millens, I wouldn't have brought it down
6 years ago, but today the price is pretty good for a
7 scrap car. And I poke a hole in my gas tank and
8 let it run in my yard and no one sees it. If he
9 does this properly, and he builds an enclosed
10 facility, will he have tanks and recyclables, pick
11 up oil like they have in gas stations like that,
12 and drain oil and dispose of it properly?

13 SUPERVISOR QUIGLEY: Those are required
14 under the navigable acts of the State of New York I
15 believe. They are required under state law.

16 MR. TURCO: So there will be laws he has
17 to live by. So if he is going to live by these
18 laws, he does employ some people, gives them jobs,
19 I don't know how many. He will also pay taxes to
20 the Town of Ulster. I don't know what the sales
21 tax and stuff is on what he sells and buys, that
22 stuff. The main thing is do we know that these
23 facilities exist someplace else that we can have a
24 proper recycling plant next to a railroad. And as
25 far as noise goes, I live pretty close to that

1 place. Last night, I should say this morning
2 between three, four o'clock, a couple trains
3 decided to blow their horns. They are not whistles
4 any more, because they are diesel. Whether they
5 were going through the yard and there's only one
6 track and have to pass each other, and they blew
7 the whistles three or four times, I woke up and
8 said to my wife, you like the train noise? I can't
9 stop the trains. Anyway, he's not going to run at
10 night. He's going to run in the daytime. And
11 they're talking about trucks. If I'm thinking the
12 way Mr. Millens is, and he's got the railroad yard
13 there, and he can load his steel into the railroad
14 and get it to where it has to go, because the scrap
15 yards in New Jersey and all those places, they are
16 all available on that railroad. There won't be as
17 many trucks as they are talking about. There will
18 be cars. People will be towing their cars in
19 there, because they get a pretty good price for a
20 car, and they don't want to keep it in their yard.
21 If they don't have a place to dump it they might
22 dump it in the woods someplace. I used to hunt and
23 fish and found a lot of cars in the woods just
24 rusting away. I think if Mr. Millens is trying to
25 do this thing properly, you got to let him try it,

1 and if there is no law against it, inspect it and
2 do what you have to do to keep the thing on the
3 right track. So I don't know what the big fuss is.

4 Do you have any idea what his taxes would
5 be to the town?

6 SUPERVISOR QUIGLEY: I don't know at the
7 present time.

8 MR. TURCO: But you know there will be
9 some tax?

10 SUPERVISOR QUIGLEY: There will be taxes.
11 Thank you, Mr. Turco.

12 Any other individuals for public comment?

13 At this point I would like a motion to
14 adjourn this public hearing.

15 MR. KITCHEN: Motion.

16 SUPERVISOR QUIGLEY: All in favor, I.

17 (MOTION PASSED BY BOARD MEMBERS.)

18 SUPERVISOR QUIGLEY: This concludes
19 tonight's public hearing.

20 I would ask by a show of hands how many
21 people have questions they would like to pose to
22 the DEC?

23 SUPERVISOR QUIGLEY: Two. Gentlemen, do
24 you have time for questions?

25 MR. CONLON: Yes.

1 SUPERVISOR QUIGLEY: Please come back to
2 the table, ma'am, in the back. If you would prefer
3 to be first, come up to the mic. Please state your
4 name and address, for the record.

5 MS. WOODS: My name is Lynn Woods. I live
6 at 43 Hone Street in Kingston, and I write for The
7 Kingston Times. I had written a story about the
8 Millens situation at the creek about a year ago for
9 The Kingston Times, and saw quite a bit of
10 documents about the whole saga with the DEC and
11 violations. My main question to the DEC is if
12 Millens don't go ahead with this site, it sounds to
13 me like they are going to have to move everything
14 off their property to be cleaned, they are going to
15 have to close their operations. What is your time
16 frame for this? A year ago when I did the article
17 there already had been delays. It was overdue.
18 The DEC has been saying for five, six years they
19 are going to clean it up, take over the site, not
20 let Millens to clean it up exponentially as they
21 were planning to, so they blew it. So the question
22 I have now is when is the clean up going to happen?
23 And according to the information I saw, and the
24 other gentleman mentioned this, there are all kinds
25 of hazards, waste that I'm sure you are aware of,

1 Bobby Iannucci found on his site, and he hired
2 engineers, that had migrated from the Millens site,
3 things like MTEV was found, PCPs, the other thing
4 you mentioned, other hazardous wastes, mercury,
5 lead, and these are migrating into the lagoon and
6 surrounding property. My question is: Is the
7 timing, when are you planning on taking action, and
8 what's holding it up? Is it lack of state funds,
9 because the state would have to pay for the clean
10 up rather than Mr. Millens at this point?

11 SUPERVISOR QUIGLEY: Would you give him
12 the microphone now.

13 MR. CONLON: First of all, the site was
14 originally listed by us as a class two site in 2008
15 actually, relatively late in 2008. So from 2008
16 until now hasn't been five, six years. Although it
17 has been identified previously as contaminated and
18 was under a water quality order previous to that
19 time period, we have been doing investigations in
20 relation to the site. We have met with
21 Mr. Millens' attorney on a couple of different
22 occasions, and we have notified them that we would
23 be moving forward with an investigation and
24 remediation, and if we don't have an agreement on a
25 drop dead date, that they would have stuff out of

1 our way, so we can do a complete investigation and
2 mediation, and we would need to go to court and get
3 a court order to do so. That time period in
4 relation to that is probably within the next six
5 months. That depends on the courts and everything
6 else in relation to it moving forward. We
7 certainly would prefer to have an orderly process
8 in relation to it. And if a facility is going to
9 be built, that we don't end up with a situation
10 where we potentially are taking possession of
11 recycling material and create that havoc with court
12 proceedings. We prefer not to have to do that. If
13 we can do that in an ordinarily fashion it's
14 preferable in relation to it. In relation to cost,
15 cost is not an issue in relation to the
16 department's view of the work. The department has
17 money set aside in relation to doing the work, and
18 we will seek recovery of that money, and we have
19 already notified Mr. Millens' attorney, Mr. Millens
20 through his attorney that we inspect to be paid for
21 all costs that we incur in relation to
22 contamination at his site. So it's not a money
23 issue whatsoever in relation to the site. We do
24 have the money committed in relation to the site.

25 MS. WOODS: So basically in order to start

1 a clean up, all material would have to be moved off
2 the site. So it really would be impossible for him
3 to operate while you're cleaning up?

4 MR. HEITZMAN: That's correct. He
5 attempted to clean up the site and maintain his
6 operations at the same time, and that failed. We
7 have a concern for recontamination of the clean
8 soil he put back in, because he tried to do it
9 piece meal.

10 MS. WOODS: My other question is, would
11 this clean up also involve the surrounding areas
12 not on the Millens property per se, like PCPs in
13 the creek, for example?

14 MR. HEITZMAN: We have no evidence of PCPs
15 in the creek. It's hard to answer that question,
16 because we don't know the full impacts of the off
17 site Millens property, because we haven't
18 investigated.

19 MS. WOODS: So will you be investigating
20 that?

21 MR. HEITZMAN: Yes. That's what happens
22 before any clean up. We need to fully investigate
23 the site and develop a remedial plan.

24 MS. WOODS: Okay, my last question is:
25 Does Millens have a SPDES permit now? Because I

1 tried to find this out, and DEC Region III never
2 called me back. I assume they would have to have a
3 SPDES permit. I'm unclear about whether they would
4 have to far one, and whether they do have one. Is
5 that Region III?

6 MR. CONLON: We unfortunately are from the
7 Super Fund program, and we are dealing with the
8 Super Fund clean up. Whether or not there is an
9 active SPDES permit at the site or not, I'm not
10 fully aware as to whether or not the one exists.
11 It has nothing to do with this program. And quite
12 frankly, when we operate a remedial system or a
13 remediation on the site, we are exempt from the
14 requirements of getting a permit ourselves. We
15 have to meet the substantive conditions as if we
16 had a permit, but we don't operate within the
17 permitting process.

18 MS. WOODS: And just the point about the
19 PCPs, according to the information I found in 2005,
20 Iannucci retained Fuss and O'Neill to test his
21 Kingston Landing property and the firm discovered
22 elevated levels of PCPs and petroleum in the ground
23 water on the site. I guess that would be the
24 wetlands. When I talk about PCPs in the lagoon,
25 that's what I found in the material when I copied

1 it. That's what I was referring to.

2 MR. HEITZMAN: I would need to review that
3 report.

4 MR. CONLON: There were piles of material
5 on his site.

6 MS. WOODS: On Bobby Iannucci's site.

7 MR. CONLON: We're not sure where the
8 contamination was emanating from, or from piles of
9 materials put on his site.

10 MR. HEITZMAN: In fact, one of the areas
11 of high contamination on the Iannucci property was
12 the pipeline that ran from the KOSCO Oil facility
13 across his property and that pipe seemed to leak, a
14 lot of petroleum on his property due to that. I
15 can't speak to the PCPs without looking at the
16 report.

17 MS. WOODS: Is the KOSCO site a Super Fund
18 site also?

19 MR. HEITZMAN: It is not. Mr. Iannucci's
20 property is in the clean up program, and the KOSCO
21 site may have an open spill.

22 MS. WOODS: Okay, thank you very much.

23 SUPERVISOR QUIGLEY: Mr. Barton first, and
24 then Mr. Wiedemann.

25 MR. HEITZMAN: Actually, Mr. Barton, you

1 asked a question during your earlier remarks that
2 we didn't get a chance to answer. And that was:
3 Is he required to get a DEC license to operate at
4 his new facility? We do not issue licenses for
5 vehicle dismantling facilities. Those are issued
6 by the Department of Motor Vehicles.

7 MR. BARTON: When is the last time you did
8 an inspection on the City of Kingston Millens
9 property?

10 MR. HEITZMAN: I'm sorry, could you repeat
11 that?

12 MR. BARTON: When was the last time you
13 did an inspection on the Millens property in the
14 City of Kingston along Strand Street?

15 MR. HEITZMAN: I do not do and my group
16 does not do inspections of the ongoing
17 investigations, and I don't know the date on which
18 the regional office did that inspection.

19 MR. BARTON: Can we get that information
20 along with what was found at the time, because you
21 have been saying they have not been in violations,
22 and if there has been no inspections, and what type
23 of inspection it was, and the type of materials
24 that were in violations of the current laws, how do
25 we know what they do?

And are you also saying that you would not issue the applicant before the town board, Millens, would have to get any license agreements from the DEC?

MR. HEITZMAN: I'm saying we do not have the authority to issue those licenses. The authority is with the Department of Motor Vehicles.

MR. CONLON: Or dismantling operations.

MR. HEITZMAN: Or vehicle dismantling operations.

MR. BARTON: If I understood you right, you are reactive, because they have to pollute first before you can take any steps?

MR. HEITZMAN: No, that's not correct. We assist the Department of Motor Vehicles when they do the inspections of the vehicle dismantling itself.

MR. BARTON: Do you know anything about the Eddyville auto recycling plant where they had some problems down there, and it was done at the occurrence of the Motor Vehicle Department of New York State?

MR. HEITZMAN: We are not involved in those. It would be other people in the department.

MR. BARTON: Because I visualize that the

1 DEC should be more proactive to prevent something,
2 rather than reactive waiting until things are
3 polluted. The reason we do have so many
4 pollutants, because the governing boards are not
5 proactive in using some common sense, and there
6 should be on the state's part hopefully to improve
7 that being proactive rather than reactive for the
8 solutions. To me being proactive is going to be
9 more cost effective in the long run.

10 SUPERVISOR QUIGLEY: Mr. Wiedemann, I
11 promised them two questions. I will give you the
12 privilege of the floor if you promise to make it
13 short.

14 MR. WIEDEMANN: I want to respond to one
15 of Lynn Woods' comments. Any kind of remediation
16 that would take place at Millens Kingston site
17 would not involve a shut down of business. He has
18 two other locations, one in Poughkeepsie, one in
19 Newburgh, scrap or other operations.

20 SUPERVISOR QUIGLEY: Mr. Kirschner, I
21 asked you to remain quiet tonight, but I will ask
22 you: Does the Millens family have an interest in
23 any type of facilities in Newburgh, New York?

24 MR. KIRSCHNER: No, sir.

25 SUPERVISOR QUIGLEY: So it is factually

1 correct when he says Poughkeepsie?

2 MR. KIRSCHNER: Yes, sir.

3 SUPERVISOR QUIGLEY: Factually inaccurate
4 when he says Newburgh?

5 MR. WIEDEMANN: MR. Kirschner is the one
6 who said --

7 MR. KIRSCHNER: No, Mr. Brouck (phonetic)
8 mistakenly said that at the county planning board.

9 MR. WIEDEMANN: Then I'm sorry.

10 SUPERVISOR QUIGLEY: Are you satisfied
11 with the clarification?

12 MR. WIEDEMANN: That's fine.

13 SUPERVISOR QUIGLEY: Any other questions?
14 At this point I would ask any questions from the
15 board?

16 MS. HENDRICK: Yes, just a few.

17 Based on the fact that this new site, I
18 know you haven't seen any of the plans, but this
19 new site does have a very serious storm water
20 issue, do you in your opinion think having a plan
21 in an area that has a very serious storm water
22 issue could be an issue with this type of enclosed
23 facility?

24 MR. HEITZMAN: Well, when you think about
25 it, if it's enclosed, the storm water is not going

1 to come in contact with any contamination.

2 MS. HENDRICK: But the doors are open.

3 MR. HEITZMAN: To me the issue is just
4 handling the runoff from a permeable surface, that
5 being the roof of the building. Those things can
6 be engineered. That's not contamination. That's
7 simple water flow.

8 MS. HENDRICK: The cement floor. The
9 floor is going to be a cement floor. Is there any
10 issue with that, it's enclosed, a cement floor for
11 absorption?

12 MR. HEITZMAN: Potential battery drainage
13 should be on a sealed concrete surface, as should
14 the oil. As long as the concrete is sealed there
15 shouldn't be a problem.

16 MS. HENDRICK: The last question for me
17 is: With the Poughkeepsie site, which was a valid
18 site, is there any compliance issues there?

19 MR. HEITZMAN: I don't know.

20 MS. HENDRICK: You don't handle those?

21 MR. HEITZMAN: No. I don't know. It's
22 not a hazardous waste disposal site.

23 SUPERVISOR QUIGLEY: Any other questions
24 from the board?

25 MR. KITCHEN: I would like to thank the

1 gentlemen from the DEC for coming down this
2 evening. You have answered a lot of my questions,
3 and I feel more comfortable after meeting you
4 folks. Thank you for coming tonight.

5 SUPERVISOR QUIGLEY: Anything else?
6 Motion to adjourn.

7 (MOTION PASSED BY BOARD MEMBERS.)

8 SUPERVISOR QUIGLEY: Thank you very much,
9 ladies and gentlemen. This meeting is adjourned.

10 (WHEREUPON THE PROCEEDINGS WERE CONCLUDED.)
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C E R T I F I C A T I O N

I, BARBARA VAN BLARCUM, hereby certify and say that I am a Shorthand Reporter and a Notary Public within and for the State of New York; that I acted as the reporter at the proceedings herein, and that the transcript to which this certification is annexed is a true, accurate and complete record of the minutes of the proceedings to the best of my knowledge and belief.

BARBARA VAN BLARCUM